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BEFORE

THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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**SECRETARYS OFFICE
Public Utility Commission**

In re: A-00108155 Application of Central Transport, Inc.
A Corporation of the State of North Carolina, for
the right to transport, as a common carrier,
property, in bulk, in tank and hopper-type
vehicles between points in Pennsylvania.
Initial hearings.

Harrisburg, Pennsylvania
November 2, 1988

**DOCUMENT
FOLDER**

Pages 141 to 197, inclusive

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NOV 29 1988

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CERTIFIED ORIGINAL

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A Corporation of the State of North Carolina, for
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Initial hearings

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Stenographic report of hearing held
in Hearing Room 3, North Office Building
Harrisburg, Pennsylvania,

Wednesday,
November 2, 1988
at 10:00 o'clock p.m.

- - - - -

BEFORE

MICHAEL SCHNIERLE, ADMINISTRATIVE LAW JUDGE

APPEARANCES:

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1 JUDGE SCHNIERLE: This is the time and date and place
2 for the hearing in the matter of the application of Central
3 Transport, Incorporated. I note the counsel for all parties
4 appear to be present at this point. I'd like to go off the
5 record for just one second.

6 (Discussion was off the record.)

7 JUDGE SCHNIERLE: Mr. Chesnutt, are you prepared to
8 present another witness at this point?

9 MR. CHESNUTT: I am, I have one preliminary matter
10 left over from yesterday, if Your Honor please. On the
11 record there was an indication made yesterday that
12 additional amendments to the scope of the authority sought
13 would be made that would -- and they are read into the
14 record. And that I further represented that I would prepare
15 in written form what I have chosen to entitled Supplemental
16 Exhibit Number 5, and it incorporates the amendments read
17 into the record and also changes the notation at the top to
18 indicate that the amendment is as of November 1, 1988.

19 So I will give those to counsel. I made every effort
20 -- although I don't have a copy of yesterday's transcript, I
21 made every effort to faithfully follow the reading into the
22 record.

23 JUDGE SCHNIERLE: You missed a comma after butane.

24 MR. CHESNUTT: Well, I figured something would go
25 wrong. All right, Your Honor is correct. In the second

1 proviso paragraph, the second line should end with a comma.
2 I have marked the official copy to make that change.

3 JUDGE SCHNIERLE: Thank you.

4 MR. CHESNUTT: I would offer Supplemental Exhibit
5 Number 5.

6 JUDGE SCHNIERLE: Are there any objections to Number
7 5?

8 (No response.)

9 JUDGE SCHNIERLE: Supplemental Exhibit Number 5 is
10 admitted into evidence.

11 (Applicant's Supplemental Exhibit No. 5 was admitted in
12 evidence.)

13 MR. CHESNUTT: I would call George Keller to stand
14 forward in the witness spot so you can be sworn, please.

15 GEORGE L. KELLER, called as a witness, having been
16 duly sworn, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. CHESNUTT:

19 Q. State your name and business address, please.

20 A. My name is George L. Keller. My business address
21 is 77 North Kendall Avenue, Bradford, Pennsylvania 16701.

22 Q. Mr. Keller, by whom are you employed and in what
23 capacity?

24 A. I'm employed by Witco Corporation as central
25 regional traffic manager with traffic responsibilities of

1 Ohio, Pennsylvania and New Jersey.

2 Q. And I believe the correct name of the corporation
3 is Witco Corporation rather than Witco Chemical Corporation?

4 A. That is true.

5 MR. CHESNUTT: Your Honor, I have distributed to all
6 the parties, two copies to the reporter, and I'm asking the
7 reporter to hand up a series of exhibits that would be
8 responsive by Mr. Keller.

9 I would ask it be identified as -- the first of which
10 being two pages of prepared testimony which I would ask be
11 identified as Exhibit Number 8 be so marked.

12 JUDGE SCHNIERLE: Marked as Exhibit Number 8.

13 (Applicant's Exhibit No. 8 was produced and marked
14 for identification.)

15 MR. CHESNUTT: The second item is a single sheet
16 document headed September 1988 Intrastate Tankwagons. I
17 would request that be marked as Exhibit Number 9.

18 JUDGE SCHNIERLE: It may be so marked.

19 (Applicant's Exhibit No. 9 was produced and marked
20 for identification.)

21 MR. CHESNUTT: And the final exhibit to be sponsored
22 by Mr. Keller is a multi-page, 18-page document entitled
23 Tank Trunk Shipments from Bradford. I would request that be
24 marked as Exhibit Number 10.

25 JUDGE SCHNIERLE: It may be so marked.

1 (Applicant's Exhibit No. 10 was produced and marked
2 for identification.)

3 BY MR. CHESNUTT:

4 Q. Mr. Keller, as you previously indicated on
5 Exhibit 8 the corporate name is really Witco Corporation
6 rather than Whitco Chemical Corporation?

7 A. That's true.

8 Q. With that correction, do you stand by and swear
9 to the statements made in the Exhibit Number 8?

10 A. I do.

11 Q. Would you explain for us, Mr. Keller, from what
12 origin the shipments shown on Exhibit 9 were made? Exhibit
13 9 is the September 1988 destination. What are origins?

14 A. This origin is Petrolia, Pennsylvania.

15 Q. What business does Witco Chemical Corporation
16 conduct in Petrolia?

17 A. There is a petroleum refining business refining
18 such products as petroleum oil, wax, petrolatums, white oil,
19 which is described for freight classification as petroleum
20 oil.

21 Q. What shipment -- or what sort of products are
22 reflected by the shipment shown on Exhibit 9?

23 A. Every range of products.

24 Q. That you just named?

25 A. Yes.

1 Q. Is among the petroleum oil or white oil,
2 petrolatum and wax, could you indicate for the Judge which
3 of those products predominates among the shipments made from
4 Petrolia?

5 A. The while oil or petroleum products predominate.

6 Q. With respect to Exhibit 10 that's entitled Tank
7 Truck Shipments from Bradford, would you indicate which sort
8 of business Witco Corporation conducts at Bradford?

9 A. Bradford is also a petroleum refinery
10 manufacturing motor oils which are classified as lubricating
11 oil, gasolines, waxes and petrolatums.

12 Q. Had you been advised that the Applicant in this
13 proceeding has eliminated gasoline from the products it
14 intends to transport if this application is approved?

15 A. Yes.

16 Q. With respect to the Bradford facility, could you
17 indicate which of the products you named is the most
18 predominant item shipped from that location?

19 A. Lubricating oil.

20 Q. And what is the second most predominant?

21 A. Petrolatums.

22 Q. And third?

23 A. Wax.

24 Q. In either the Petrolia or Bradford facility, has
25 there been any change in output of production from those

1 facilities in the recent past?

2 A. Especially in Petrolia, the output has been
3 increased dramatically. We just finished a \$27,000,000.00
4 project to increase production. With a reactor installed,
5 production has increased -- I can't give a figure. It has
6 increased dramatically necessitating more shipments.

7 Q. Let's look at Exhibit Number 9 which you've
8 indicated destinations. Are all these destinations intended
9 to be in Pennsylvania?

10 A. That's true.

11 Q. And the number of loads column, are they
12 truckloads or less than truckloads?

13 A. Truckloads.

14 Q. In the carrier column, are they -- except for one
15 entry opposite Reading in July of 1988 -- all common carrier
16 services that you utilize in Pennsylvania?

17 A. Yes, sir.

18 Q. And I believe the entry for July 1988 at Reading
19 reflects a customer pickup?

20 A. That's true.

21 Q. Do you believe that this three-month summary of
22 shipments from the Petrolia origin is representative of the
23 traffic that generally moves to points in Pennsylvania from
24 that facility?

25 A. That's true.

1 Q. At the Petrolia location, what do you expect from
2 carriers in terms of the type of equipment that is being
3 furnished for the movement of petroleum oil, petrolatum and
4 wax? What type of trailers do you look for from carriers?

5 A. Predominantly, we need single stainless steel
6 insulated equipment -- MC-307s. Secondly, we need
7 compartment tanks of the same caliber, stainless steel.

8 Q. MC-307 is the designation of the trailers that
9 you use there. Let me hand you what has been received in
10 evidence in this matter as Exhibit 1-D. Do you see on that
11 exhibit the type of trailers that you are looking for in
12 terms of transportation from that facility?

13 A. Yes. The first set of 396 stainless steel
14 MC-307. Seventy-nine of the three compartment stainless
15 steel 307s.

16 Q. Now, would you explain, with respect to Bradford,
17 whether the type of equipment that you expect from carriers
18 at Bradford are different from what you expected at
19 Petrolia?

20 A. It's somewhat different. We are not dealing with
21 food-grade material. It still has to be clean trailers.
22 But Bradford we predominantly ship lubricating oil which
23 could be shipped in different trailers. But in Bradford, we
24 also need many more compartment tanks than we do at
25 Petrolia.

1 Q. And at Petrolia you indicated food-grade
2 products. Could you explain for the judge and the record
3 what significance your use of that phrase is in terms of
4 your transportation requirement?

5 A. Well, principally, white oil is a colorless,
6 odorless, tasteless petroleum that is base for
7 pharmaceuticals and Revlon products such as lipstick, baby
8 oil -- Johnson and Johnson baby oil, et cetera. It goes for
9 all drugs and food-grade material.

10 And some of the other products petrolatums going to
11 things used for bakery goods and some of the waxy chewing
12 gum wrappings. And all of the products are very susceptible
13 to contamination.

14 Q. And what do you expect of a carrier in terms of
15 the condition of the trailer equipment that is furnished to
16 you at the Petrolia location, first of all?

17 A. In Petrolia, we need a very clean and dry
18 trailer. And it's inspected very rigorously by going in
19 there with covered equipment and so on and wiping it down
20 with a rag and taking apart some of the equipment to see if
21 it is clean and clean the holes to make sure. It is a very
22 rigorous inspection.

23 Q. If your inspection discovers an unsatisfactory
24 condition of the trailers, what do you do with respect to
25 that trailer?

1 A. We reject it and have it cleaned and sent back,
2 if possible. If not possible, we have to call another
3 carrier that has clean equipment because customers in this
4 day and age can't stand that extra day delay.

5 Q. Would you explain, looking at Exhibit 10, which
6 is Tank Truck Shipments from Bradford, focus first of all,
7 if you will, on the carrier column which is the fifth column
8 over from the left. Would you tell us what the designation
9 APL that appears in that column means?

10 A. Under the carrier?

11 Q. Yes.

12 A. ARL?

13 Q. ARL. My bifocals are not working well.

14 A. That's a private carrier.

15 Q. All right. What is the designation Brad-Pack?

16 A. That's also a private company hauling its own
17 material.

18 Q. Chemical Leaman?

19 A. Chemical Leaman?

20 Q. A well-known carrier, and you understand that
21 they are protesting this application?

22 A. That's true.

23 Q. On the second page in the column is the
24 designation CPU?

25 A. Yes. That's -- as you noticed in the second

1 column to the left, it's Brad-Pack. It depends on how my
2 secretary receives in off the bill of lading. CPU is the
3 customer comes for pickup, and sometimes they are
4 Brad-Pack. They are synonymous with each other.

5 Q. Proceeding to page 4 of the exhibit, begins a
6 designation on the carrier column of Crossett. Could you
7 agree that that is a motor common carrier which is a
8 Protestant to this proceeding?

9 A. Agreed.

10 Q. Moving forward to page 11, it is a designation of
11 Hermes. Would you explain what that designation conveys?

12 A. That's a private customer.

13 Q. Immediately following that are a number of
14 designations of Kendall?

15 A. That's Witco's own carrier division. It has been
16 a Kendall division.

17 Q. Proceeding to page 12, there begins a series of
18 designations in the carrier column of Leaseway. Would you
19 explain what that designation means?

20 A. Leaseway is the holding company name of Refiners
21 and Fleet -- Refiner Transport Terminal and Fleet. At least
22 in our jargon in which we use that.

23 Q. On page 16, there is a reference in the carrier
24 column to Matlack. We recognize that, do we not, as a
25 carrier who is a protestant in this proceeding?

1 A. Yes.

2 Q. And finally -- not finally. Then there is a
3 reference beginning on page 16 that is M-a-u-s-t?

4 A. George M. Maust Company is the common carrier
5 with Pennsylvania authority.

6 Q. Final on page 18, there is a reference to Oil
7 Tank Lines. They are a protestant in this proceeding?

8 A. True.

9 Q. Immediately following that reference is Paul
10 Miller. Would you explain that?

11 A. That's a customer requested pickup.

12 Q. Quality Carriers is a motor common carrier. Is
13 that correct?

14 A. That is correct.

15 Q. And finally, Zappi, Z-a-p-p-i?

16 A. That's a motor common carrier.

17 Q. For what time period does Exhibit 10 cover
18 traffic moving from the Bradford facility?

19 A. A quarter of a year.

20 Q. Specifically, July through --

21 A. September.

22 Q. Do you believe that to be representative of the
23 traffic pattern from that facility to points in Pennsylvania
24 as well as the use of the carriers?

25 A. I do.

1 Q. Would you explain how tank trailers are located
2 or loaded at the Petrolia and Bradford facilities of your
3 company? How is the product put into the tanks?

4 A. It's a various means, but generally it's pumped
5 from tanks overhead into the head of the trailers, if that
6 answers your question.

7 Q. I think it does. And what -- how do you go about
8 or do you go about bringing carriers' equipment in there in
9 terms of the scheduling? What are the terms under which you
10 ask carriers to arrive and bring their trailers to you?
11 What are your expectations? How does it all work?

12 A. In Petrolia, Pennsylvania, every carrier is
13 scheduled principally with an hour's difference for each
14 product. Now, you may have four products at one time or
15 five. So you have five carriers scheduling for same amount
16 at the same time, but not for the same product.

17 And it is very close scheduling, especially with the
18 increase in business. Scheduling is very tight, and we
19 cannot afford delays because it interrupts the schedule
20 badly and possibly delays our shipments to the customer.

21 And a portion of our material in Exhibit 10 is
22 scheduled tight and that is the department tanks of
23 lubricating oil are scheduled on a very tight schedule also
24 for the same reason.

25 Q. In your examination of Exhibit 9 and Exhibit 10

1 for us and your explanation of the carriers that are
2 utilized there, you made reference to a number of carriers
3 -- Chemical Leaman, Crossett, Leaseway which you use as a
4 synonym for Refiners Quality Oil Tank Lines and others.

5 In view of the availability of those carriers and the
6 use that you have made of them, why are you here supporting
7 the application of Central Transport to provide service
8 between points in Pennsylvania?

9 A. Primarily, I'm here to protect those interests
10 to see that we are fully covered with all viable carriers.
11 We also have, as I said, a very close function on delays.
12 And if a carrier becomes very regular on delays or rejects,
13 we wish to have a choice for other viable carriers,
14 especially a carrier similar to Central Transport who has a
15 new cleaning facility and who also have a terminal where
16 adequate equipment is very, very near us as far as the
17 Petrolia plant is concerned and not that far away from
18 Bradford.

19 Q. What is the location of the terminal facilities
20 of Central to which you are referring?

21 A. Central is in Karns City which is about
22 approximately a mile away from your plant in Petrolia.

23 Q. You utilize Matlack, from what facility -- what
24 is the closest facility of that carrier to your place of
25 business?

1 A. Their present facility now is in Neville, Ohio
2 which is approximately an hour and ten minutes away, I
3 believe, from Petrolia. And they have other terminals
4 possibly Niagara Falls, which is a little closer to Bradford
5 which is about two and half hours.

6 But I'm not sure exactly -- we are not party to where
7 they move their equipment to in Bradford. But in Bradford,
8 we also have a Matlack terminal within quarter of a mile
9 from our plant.

10 Q. You have a Matlack terminal in Bradford?

11 A. Yes, for certain products, yes.

12 Q. Can you indicate with respect to the other
13 carriers -- Chemical Leaman, for example -- from what
14 terminal facility you understand their equipment is
15 supplied?

16 A. Chemical Leaman equipment principally comes from
17 Warren. That is 35 miles away from Bradford and Petrolia.
18 I'm not aware where the pickup of their equipment is at this
19 point. When we order, I don't ask where it's coming from.

20 Q. You indicate that Exhibits 9 and 10 in terms of
21 the number of shipments that you make in Pennsylvania are
22 fairly representative of how you presently divide the
23 traffic from those origins among the carriers that you are
24 utilizing.

25 If the application of Central is to be granted, and

1 they were authorized to provide services from these two
2 origins for your company, how would you alter or would you
3 alter the pattern of carrier usage that we are looking at
4 here on Exhibits 9 and 10, if at all?

5 A. We would have the ability then to be more choosy
6 about carriers being on time which is one of our things that
7 management is in demand that we make our schedule tighter.
8 We would be more choosy. At this point with the business
9 increase, we cannot have that luxury.

10 Q. You indicate in Exhibit 8 that you reviewed
11 documentation that shows considerable use of Central
12 Transport to points outside of Pennsylvania. Do you have
13 any statement to make about whether if this application were
14 granted, you would expect to utilize that carrier service to
15 points in Pennsylvania from these two locations?

16 A. Yes. We would utilize their service.

17 MR. CHESNUTT: Those are all the questions I have for
18 this witness. He is available for cross examination.

19 MR. PATTERSON: Your Honor, can we have about ten
20 minutes perhaps?

21 JUDGE SCHNIERLE: There will be a ten minute recess
22 before cross examination of this witness.

23 (Whereupon, a brief recess was taken.)

24 JUDGE SCHNIERLE: We had a short recess. At this
25 point, Mr. Keller is available for cross examination.

1 MR. PATTERSON: Mr. Keller, I'm James W. Patterson.
2 I represent Matlack, and I have no questions, sir.

3 MR. WICK: I represent Refiners. I have no questions
4 at this time.

5 MR. GRAF: I'm Christian Graf. I represent Oil Tank
6 Lines, Inc. and Marshall Services, Inc. for Ken Olsen. I
7 have no questions.

8 MR. MALIN: Mr. Keller, I am Ronald Malin. I
9 represent Crossett. I have no questions.

10 MR. O'KANE: I am general counsel for Chemical
11 Leaman, and I have no questions.

12 JUDGE SCHNIERLE: I have a couple questions, Mr.
13 Keller. Either in terms of incidents per week or in terms
14 of percentage, can you give me how often trailers are
15 rejected for cleanliness?

16 MR. PATTERSON: Your Honor, may I interpret, sir?
17 One of our -- these cases run generally as a means of the
18 parties and in the case choosing whether or not to dwell
19 deeper. Part of our choice is after the witness finishes
20 with his testimony on direct, we have to make a judgment as
21 to whether to cross examine in balancing that testimony.

22 I understand that you, as the Presiding Officer, have
23 other concerns as well. One of my concerns is that we
24 declined to ask this witness additional questions for
25 particular purposes, not simply because we didn't feel like

1 it.

2 JUDGE SCHNIERLE: I understand that.

3 MR. PATTERSON: I'm concerned that Your Honor, in
4 asking those questions, will open up areas -- the general
5 areas where we choose not to open. I would ask Your Honor
6 to consider that in terms of your asking questions of the
7 witness.

8 MR. MALIN: May I be heard, too, Your Honor?

9 JUDGE SCHNIERLE: You may.

10 MR. MALIN: The obvious conclusion of Protestants is
11 that the preceding testimony was general enough that there
12 should be no questions. But if you do decide to ask
13 questions, then I would like, of course, then to reserve my
14 right to cross examine.

15 Also if you did, I don't think it's necessarily
16 appropriate that you would differentiate between different
17 origins that this gentleman talked about Petrolia and talked
18 about Bradford and talked about different circumstances.
19 But I would concur with that statement.

20 MR. WICK: I think with that position, the Applicant
21 makes his case. He made it with this witness, and we are
22 content to rest with that testimony.

23 MR. GRAF: I agree.

24 JUDGE SCHNIERLE: I have to point out that I have a
25 somewhat different duty here, and that is I'm expected to

1 have a full record on which to make a decision. However, I
2 appreciate your comments, and I have one or two questions
3 that I do want to ask of this witness. And I'll pass over
4 the last one, but I'm going to give you a different one at
5 this point.

6 BY JUDGE SCHNIERLE:

7 Q. All of these exhibits, particularly 9 and 10,
8 generally speaking, who pays for the transportation coming
9 out of these locations?

10 A. It varies, Your Honor. Some are collect, or they
11 are pre-paid.

12 Q. And who generally, if it is not a customer
13 pickup, who generally arranges for shipping?

14 A. Witco does, sir.

15 Q. Witco does?

16 A. Yes, sir.

17 JUDGE SCHNIERLE: I have no further questions.

18 MR. CHESNUTT: I have no questions in response to the
19 Judge's questions. I offer Exhibits 8 through 10.

20 MR. GRAF: No objection.

21 MR. PATTERSON: No objection.

22 JUDGE SCHNIERLE: Central Transport 8 to 10 are
23 admitted into evidence.

24 (Applicant's Exhibit Nos. 8 through 10 were admitted
25 in evidence.)

1 MR. MALIN: Indulge me. I would like to make a phone
2 call. Could I have another five minutes? We have only two
3 witness, and I'm sure we are going to get done.

4 JUDGE SCHNIERLE: Another five minute recess so you
5 can make a phone call.

6 (Whereupon, a brief recess was taken.)

7 JUDGE SCHNIERLE: We are back after a brief recess.
8 Mr. Chesnutt, I believe you have another witness you wish to
9 call at this time.

10 MR. CHESNUTT: I do, Your Honor. I ask Mr. Frye to
11 stand forward in the witness box and be sworn, please.

12 VALGENE FRYE, called as a witness, having been duly
13 sworn, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. CHESNUTT:

16 Q. Would you state your full name and spell both
17 first and last name, please.

18 A. Valgene Frye, V-a-l-g-e-n-e, F-r-y-e.

19 Q. What is your business address, Mr. Frye?

20 A. It's R.D. 2, Box 1, Karns City, PA 16061.

21 MR. CHESNUTT: If Your Honor please, there is a
22 series of exhibits that I'll ask the reporter to hand up to
23 you that Mr. Frye will be responding. First is a two-page
24 document entitled prepared testimony of Valgene Frye which I
25 request be marked for identification as Exhibit Number 11.

1 JUDGE SCHNIERLE: It may be so marked.

2 (Applicant's Exhibit No. 11 was produced and marked
3 for identification.)

4 MR. CHESNUTT: The next is a single sheet document
5 entitled Traffic Originating at Karns City, PA, January
6 through October 1988 that I request be marked for
7 identification as Exhibit 12.

8 JUDGE SCHNIERLE: It will be so marked.

9 (Applicant's Exhibit No. 12 was produced and marked
10 for identification.)

11 MR. CHESNUTT: The next is a single sheet document
12 entitled Inbound to Karns City, January through September
13 1988 that I request be marked as Exhibit Number 13.

14 JUDGE SCHNIERLE: It may be so marked.

15 (Applicant's Exhibit No. 13 was produced and marked
16 for identification.)

17 MR. CHESNUTT: And finally, a single sheet document
18 entitled Service Failures Via Fleet Matlack, Montgomery to
19 Carnegie, PA. I request be identified as Exhibit Number
20 14.

21 JUDGE SCHNIERLE: It may be so identified.

22 (Applicant's Exhibit No. 14 was produced and marked
23 for identification.)

24 BY MR. CHESNUTT:

25 Q. Mr. Frye, would you look at Exhibit 11 which has

1 been identified as your prepared testimony and state whether
2 you adopt that material is true and correct?

3 A. Yes, I do.

4 Q. Turn, if you will, to Exhibit Number 12 which is
5 traffic originating at Karns City, Pennsylvania, January
6 through October 1988. What sort of business does Pennzoil
7 conduct at Karns City, Pennsylvania?

8 A. We are a petroleum refinery.

9 Q. And from the Karns City location, which sort of
10 products are shipped outbound to points in Pennsylvania?

11 A. White oil as described as petroleum ONY and
12 petrolatums.

13 Q. All right. And with respect to the traffic that
14 is summarized on Exhibit 12, who prepared this document?
15 How did it come to be originated?

16 A. We have a scheduling book that we keep throughout
17 the year and it was just simply going through it and see how
18 far to go to points in Pennsylvania.

19 Q. Was this exhibit prepared under your direction
20 and supervision?

21 A. Yes, it was.

22 Q. And would you indicate what carriers participated
23 -- what common carriers participated in the traffic shown on
24 Exhibit 12?

25 A. Fleets, Montgomery, Matlack.

1 Q. Any others?

2 A. No.

3 Q. The reference to Carnegie indicates that of the
4 144 loads to that destination, 36 were moved via common
5 carriers. How were the remaining shipments Carnegie
6 handled?

7 A. Most were customer pickups.

8 Q. Is customer pickups or your own equipment used in
9 the transportation of any of the other loads shown on
10 Exhibit 12?

11 A. Just the Rouseville portion that we haul
12 ourselves.

13 Q. All of the 47 were hauled by your own equipment?

14 A. Right.

15 Q. And would you indicate with respect to Exhibit 12
16 what the predominant products were in order of predominancy?

17 A. They would be petroleum and petrolatums.

18 Q. Those would be the main two types of commodities?

19 A. Right.

20 Q. Would you turn to Exhibit 13, if you would, and
21 indicate for us what common carriers were utilized in
22 performing those transportation services?

23 A. That would be Refiners Transport Terminal, and
24 Fleet has been used occasionally also.

25 Q. With respect to Rouseville, there is an

1 indication that 500 of the loads -- 530 of the loads from
2 Rouseville to Karns City were handled via common carriers.

3 Would they be the common carriers you just identified?

4 A. Yes. Most of those were Refiners.

5 MR. WICK: I didn't hear that answer

6 BY MR. CHESNUTT:

7 Q. With respect to the other origins Petrolia,
8 Bradford, Emlenton, Pittsburgh and Freeport, would you
9 indicate whether private carriers were utilized to perform
10 any of that traffic?

11 A. Most of traffic is handled by our own fleet, but
12 if we need help, we solicit the outside carriers.

13 Q. When your own fleet cannot handle it, you use
14 outside carriers for that. Would you indicate what the
15 product is that comes from Rouseville?

16 A. Majority of it is kerosene, and we also moved
17 petrolatums and some neutral oil.

18 Q. Of the 530 loads that came from Rouseville via
19 common carrier, would you indicate how much of those were
20 kerosene?

21 A. I would say the majority of them were. I don't
22 -- I couldn't give you an exact figure. It would at least
23 be 95 percent or higher.

24 Q. What is the product from Petrolia?

25 A. That's George's secret.

1 Q. Okay. The last witness?

2 A. Yes.

3 Q. That's the source of material that's --

4 A. Are you talking about my exhibit that came from
5 Petrolia?

6 Q. Yes.

7 A. We have mostly petrolatums because it was shut
8 down -- our plant.

9 Q. Okay. It was obtained from Mr. Keller's company?

10 A. Right. Yes.

11 Q. What is the product moving from Bradford?

12 A. It's a naptha.

13 Q. And from Emlenton?

14 A. It's a petrolatum.

15 Q. Pittsburgh?

16 A. They were neutral oils.

17 Q. And finally, from Freeport?

18 A. That is the same thing, neutral oil.

19 Q. Look, if you will, at Exhibit 12 again which
20 consists of petroleum oil and petrolatum shipments. What
21 sort of trailer equipment do you expect from common carriers
22 that participate in that traffic?

23 A. We expect MC-307 stainless steel insulated
24 trailers that are very clean, very dry, odor-free.

25 Q. Is there any use of compartmentalized trailers,

1 or are they all single compartmented?

2 A. We use both compartmented and singles.

3 Q. Let me show what has been received into evidence
4 as Exhibit 1-D in this proceeding. Do you see the type on
5 there the equipment operated by Central Transport that would
6 be attractive to your company?

7 A. Yes, the 396 compartmented stainless steel MC-307
8 and 79 stainless steel MC-307.

9 Q. With respect to traffic mentioned in Exhibit 11
10 which is now handled by Central from your facilities to
11 points outside of Pennsylvania, do they supply the type of
12 trailer equipment that you need?

13 A. Yes, they do.

14 Q. Is it supplied in the condition that you want it
15 in?

16 A. Yes, it is.

17 Q. Looking first at the equipment or at the traffic
18 originating at Karns City, what effort -- how do you go
19 about communicating to carriers your need for trailer
20 equipment and what do you expect of them in terms of
21 scheduling or provision of that equipment?

22 A. Well, we schedule a lot of our loads because our
23 loading dock is tight scheduling. We recommend 7:30 in the
24 morning to 4:00 in the afternoon. We have to schedule
25 everything between 7:30 in the morning and 2:00 in the

1 afternoon to get out of there by the time loading forces go
2 on home without working any overtime.

3 Q. With respect to the traffic on Exhibit 12 which
4 moves outbound from your facility at Karns City, who is
5 responsible for selecting the carriers used on that when you
6 use common carrier service?

7 A. The traffic department that I work in.

8 Q. With respect to inbound service to Karns City to
9 the extent that common carriers are utilized on that
10 traffic, who is responsible for making that selection?

11 A. My department is also responsible for that.

12 Q. You've indicated use of Refiners Transport and
13 Terminal and Fleet Transport on inbound traffic and
14 indicated the use of Fleet, Montgomery and Matlack on
15 outbound traffic?

16 A. Yes.

17 Q. Keeping in mind that those carriers are now being
18 utilized by you on Pennsylvania intrastate shipments, why
19 would you be here today supporting an application of Central
20 Transport to perform services between points in
21 Pennsylvania?

22 A. Our company is continually growing and we have to
23 look out for our best interests to make sure that we have
24 adequate equipment to transport the material that we are
25 producing and selling.

1 Q. Are you aware of what facilities, in terms of
2 terminals and cleaning facilities, Central maintains in
3 Pennsylvania?

4 A. Yes, I am.

5 Q. Where is that facility located?

6 A. In Karns City, about half a mile from our
7 location.

8 Q. Is that proximity of the Central facility of any
9 interest to you?

10 A. Yes, it is. We have a lot of short notice
11 shipments, and they are able to respond quickly.

12 Q. Looking at Exhibit 12 which is the traffic moving
13 out of Karns City where you indicate use of Fleet,
14 Montgomery and Matlack, if Central Transport had been
15 authorized to perform services between points in
16 Pennsylvania during the period January through October 1988,
17 would you have changed your use of carriers at all other
18 than the way you -- I mean other than use of Fleet,
19 Montgomery and Matlack?

20 A. We had apportioned some of the traffic to them.

21 Q. And to the extent that motor common carriers are
22 utilized for the transportation of inbound traffic from
23 points mentioned on Exhibit 13, how would a grant of
24 authority to Central affect your apportionment of loads?

25 A. That's a difficult question. We really have not

1 had a great deal of failures on moving traffic inbound, but
2 there were times we could have utilized their services on a
3 last minute basis to meet all of our needs.

4 Q. You do recognize, do you not, in Exhibit 5 which
5 is offered and re-offered into evidence this morning that
6 Central Transport has indicated that it will not perform
7 transportation of kerosene?

8 A. Yes.

9 Q. Refer, if you will, Mr. Frye, to Exhibit 14 which
10 is entitled Service Failures Via Fleet, Matlack,
11 Montgomery. There's a penned-in notation that reads T.O.
12 Carnegie, PA. Who wrote that in?

13 A. I did that myself.

14 Q. And would you explain for the Judge and the other
15 counsel what Exhibit 14 is, and why it was prepared, and who
16 prepared it?

17 A. Well, the customer, Carnegie, that we have is one
18 of the very best customers that we have. And mainly what we
19 are offering the common carrier is compartmented equipment
20 because the customer picks up his own loads generally, and
21 there is just times there is not compartmented equipment to
22 satisfy their needs.

23 Q. And is that reference that you made here
24 reflective of that situation?

25 A. Yes.

1 Q. Let me show you again Exhibit 1-D which has been
2 received into evidence. When you mention compartmentalized
3 trailers, do you see on that list any equipment of the type
4 that is needed by your customer at Carnegie?

5 A. Yes, the three compartmented stainless MC-307.

6 Q. And how many of those units does Central operate?

7 A. Seventy-nine units.

8 Q. Have you had any experience with Central
9 furnishing that type of -- any type of equipment to you for
10 intrastate transportation?

11 A. Yes, we have.

12 Q. If this application were granted and Central were
13 authorized to perform services between points in
14 Pennsylvania, would you utilize that service?

15 A. Yes.

16 MR. CHESNUTT: Those are all the questions I have of
17 this witness. He is available for cross examination.

18 JUDGE SCHNIERLE: Are you prepared to cross exam at
19 this point?

20 MR. PATTERSON: I have to, again, compare notes. I
21 would request about a ten minute recess.

22 JUDGE SCHNIERLE: There will be a ten minute recess
23 prior to cross examination of this witness.

24 (A brief recess was taken.)

25 JUDGE SCHNIERLE: The witness is available for cross

1 examination.

2 CROSS EXAMINATION

3 BY MR. PATTERSON:

4 Q. Mr. Frye, I'm James Patterson. I represent
5 Matlack. Of your total volume coming from your Karns City
6 refinery, how much of that volume goes to points in other
7 states or other nations, and how much stays within
8 Pennsylvania?

9 A. I really couldn't give you a solid figure of how
10 much goes to other states or other nations but --

11 Q. I don't want in gallons, sir. Just a sense of
12 the percentage that -- let's do it this way. The percentage
13 that stays within Pennsylvania of that total volume.

14 A. I would guess probably 10 percent, something like
15 that.

16 Q. Do you have a sense of the total amount of
17 traffic that 10 percent represents that moves by truck in
18 Pennsylvania? I don't know whether it's a thousand loads or
19 80,000 loads.

20 A. Outbound over the 10 months, it was 5 to 10 loads
21 out of Karns City.

22 Q. Out of Pennsylvania?

23 A. Right.

24 Q. And for 10 months did you say?

25 A. Generally.

1 Q. Is that a representative --

2 A. I think it was.

3 Q. -- of ten months?

4 A. Yes.

5 Q. So approximately 50 loads a month?

6 A. Yes.

7 Q. And inbound from points in Pennsylvania, about
8 how many loads a month to Karns City?

9 A. That's probably in the neighborhood of about 370
10 to 400 loads a month.

11 Q. From points in Pennsylvania inbound to Karns
12 City?

13 A. Inbound to Karns City we bring a lot of material
14 from Rouseville to Karns City where the majority of it comes
15 from.

16 Q. So the inbound from points in Pennsylvania is
17 about six times the outbound?

18 A. Right.

19 Q. And what percentage of that inbound comes from
20 Rouseville, the great majority of it?

21 A. Yes. The one exhibit there shows that there was
22 3800 loads come from Rouseville over the 10-month period.

23 Q. Let's go back to outbound of Karns City, sir. Of
24 the approximate 50 loads a month outbound to points in
25 Pennsylvania, how many are handled via common carrier?

1 A. A vast majority of common carriers. Probably at
2 least 40 loads of it is common carrier.

3 MR. GRAF: I didn't hear you.

4 THE WITNESS: Forty of the 50.

5 JUDGE SCHNIERLE: Could you speak up a little bit
6 louder.

7 BY MR. PATTERSON:

8 Q. And of those same 50 loads again, not just those
9 available to common carrier, but the outbound to points in
10 Pennsylvania, what percentage is kerosene?

11 A. Very little really because of that kerosene
12 coming in.

13 Q. The kerosene inbound from Rouseville?

14 A. Right.

15 Q. And I think you did testify that you were advised
16 that Central Transport, this Applicant, has excluded
17 kerosene from the scope of the application?

18 A. Yes.

19 Q. Let me clear something up with you, sir. The
20 traffic inbound from Rouseville as shown on Exhibit 13, do
21 you have that in front of you?

22 A. Right.

23 Q. I'm a little confused whether the 95 percent
24 kerosene figure that you gave is of the total of the 3,762
25 loads or whether only 95 percent of the 530 common carrier

1 loads are kerosene?

2 A. No, the whole figure of the 3,762.

3 Q. How large is your fleet? Pennzoil fleet?

4 A. The Pennzoil fleet at Karns City we have 12
5 tractors and about 20 trailers.

6 Q. And are they all tank trailers?

7 A. Yes, they are.

8 Q. Are they MC-307 trailers?

9 A. Yes.

10 Q. And are any of them multi-compartmented trailers?

11 A. No, compartmentals.

12 Q. What percentage of your Pennsylvania loads are
13 sent out in compartmented trailers?

14 A. Probably 5 to 10 percent.

15 Q. Since it is only 5 or 10 percent in acquiring in
16 Pennzoil's activity in acquiring its own trailer equipment,
17 it didn't acquire compartmented trailers? At least one?

18 A. We haul very little out of our refinery --
19 finished products. Our main job is to haul the material
20 inbound for all jobs inbound.

21 Q. I want to ask you about the use of that fleet
22 next. I guess we might as well. You indicated that you use
23 it primarily inbound?

24 A. Yes.

25 Q. And in terms of using it on outbound traffic from

1 Karns City, what percentage of the outbound traffic -- or if
2 you can -- if it is easier for you, how many shipments per
3 month -- how many loads per month are handled by private
4 fleets?

5 A. There was almost none. We used our private fleet
6 whenever we are short of work coming inbound. We have to
7 keep our drivers busy, and I would say maybe only five or
8 six loads that may have to be moved outbound by our own
9 trucks.

10 Q. And of the outbound moving to points in
11 Pennsylvania, how many customer loads are customer pickups
12 of those 50 loads a month?

13 A. Probably about ten.

14 Q. Excuse me, just a minute, sir. How many times,
15 if you know Mr. Frye, in the period covered by Exhibit 13
16 which is January through September of this year, had you
17 called upon Matlack to provide service outbound of your
18 Karns City facility to points in Pennsylvania?

19 MR. CHESNUTT: Excuse me, if I may. Jim, I think
20 your reference was to Exhibit 13, and that's inbound.

21 MR. PATTERSON: I referred to it, I'm sorry, only for
22 the time period. And you are absolutely right.

23 BY MR. PATTERSON:

24 Q. Let's talk about -- so we are lined up on
25 outbound Exhibit Number 13 which was January through October

1 of this year. How many times had you called upon Matlack to
2 provide service intrastate Pennsylvania?

3 A. I couldn't guarantee the number. It would
4 probably be at least 15 times.

5 Q. They have provided service 15 times, hadn't they?

6 A. Not in the case when we were going to Carnegie,
7 PA due to the lack of compartmented equipment at the time.

8 Q. So your testimony is they provided service only
9 14 times?

10 A. That's the only failure that I know of that is on
11 that sheet that we call them whenever.

12 Q. So at worst, from Matlack's standpoint anyway,
13 you had a problem on one out of 15 occasions?

14 A. No. There is probably -- at my count of them on
15 that sheet, there is probably --

16 Q. Involving Matlack, sir?

17 A. Yes.

18 Q. I'm not sure I follow. You called upon them 15
19 times, and how often, according to you, did they have a
20 problem in supplying service?

21 A. The compartment tankwagons there was 78 on that
22 sheet.

23 Q. Take a look, if you would, at Exhibit 14. Now,
24 tell me first before we get further, who prepared Exhibit
25 14?

1 A. I did.

2 Q. And what was it prepared from?

3 A. Sales orders and our order book.

4 Q. Do you have those with you?

5 A. No, I do not.

6 Q. Were you asked to bring them with you?

7 A. No.

8 Q. Do you, of your own recollection, remember the
9 occasions on January 20, February 2, and February 24 -- the
10 first listed problem or set of problems. You remember them
11 of your own memory?

12 A. In those three, a fleet was scheduled, and it
13 didn't pick up. And Matlack picked up in those instances.

14 Q. That wasn't a problem involving Matlack on those
15 three occasions?

16 A. No.

17 Q. On May 24, it indicates that you wanted to ship a
18 half load. You did ship a half load?

19 A. We had to ship a half load part of the
20 compartmented truck. The day of order I could not find any
21 compartmented truck to move the load, so we had to go with a
22 half load.

23 Q. Who did the calling of the carriers on that day,
24 sir?

25 A. I couldn't guarantee. It could be Alan Dodd,

1 Nancy Delin, or myself.

2 Q. You don't remember doing it?

3 A. No.

4 Q. You won't remember who you called at Montgomery
5 or Matlack?

6 A. I couldn't guarantee, no.

7 Q. Where did you call?

8 A. Neville Island.

9 Q. Is that where you normally got in contact with
10 them?

11 A. Yes.

12 Q. And on April 26, that really wasn't a problem
13 either, was it? Montgomery picked it up.

14 A. True.

15 Q. At some point in your direct testimony, you
16 indicated the need for compartmented tanks and looked at an
17 exhibit that the Applicant's counsel showed you?

18 A. Yes.

19 Q. Do you know how many of those compartmented tanks
20 that you referred to at that point in your testimony are
21 stationed at the Applicant's Karns City?

22 A. No, I do not know how many is stationed at their
23 terminal.

24 Q. Wouldn't that be a relevant inquiry?

25 A. We have never been denied when we call for

1 compartmented tanks.

2 Q. Wouldn't that be a relevant inquiry?

3 A. Yes, it would be.

4 Q. The fact that they have X number in their system
5 doesn't really matter that much to you?

6 A. I never inquired because I never really had a
7 problem getting any compartmented equipment that I've
8 needed.

9 Q. How often do you use Central Transport? Daily?

10 A. Yes, I would say close to it.

11 Q. How many loads a day would you say on an average?

12 A. Three or four loads a day maybe.

13 Q. So that during this same period of time covered
14 by Exhibit Number 12, you would have used Central in
15 interstate commerce on approximately how many loads in a
16 period of 10 months?

17 A. It's very difficult to say, maybe 10 to 12 loads.

18 Q. Sir?

19 A. Maybe 10 or 12 loads.

20 Q. In a 10-month period?

21 A. Yes.

22 Q. I misunderstood you. I thought you used Central
23 -- I'm speaking of Central Transport now.

24 A. You are speaking --

25 Q. Two or three times a day? I simply asked over a

1 10-month period, about how many times you would have used
2 Central?

3 A. I misunderstood you.

4 Q. I thought you might.

5 A. Like I think the record shows here about 480 some
6 loads that we have moved.

7 Q. When you use a carrier to that extent, it tends
8 to make more equipment available, doesn't it?

9 A. Yes.

10 MR. PATTERSON: Your Honor, may I approach the
11 witness?

12 JUDGE SCHNIERLE: You may.

13 BY MR. PATTERSON:

14 Q. Mr. Frye, I'm going to show you a copy of the
15 application as it has been amended through about an hour
16 ago. It's marked as Supplemental Exhibit Number 5.

17 Let me direct your attention to the second paragraph
18 beginning with the word "provided" and ask you to read that
19 paragraph and tell me of the products listed there which are
20 excluded from the scope of this application, which ones you
21 either ship or receive? Take your time.

22 A. Do you want me to read out loud?

23 Q. Only those that you ship or receive.

24 A. On the receiving end, we receive some diesel
25 fuel, fuel oil, kerosene. I guess that's really about the

1 receiving end. I'm not shipping anything out.

2 Q. You are not shipping any of those products out
3 listed in that paragraph?

4 A. Right.

5 MR. PATTERSON: All right, sir. I'm virtuely done.
6 That's all I have. Thank you, Mr. Frye.

7 JUDGE SCHNIERLE: Mr. Wick?

8 MR. WICK: Just one moment.

9 BY MR. WICK:

10 Q. Mr. Frye, do you recall when you first learned
11 about this application of Central Transport?

12 A. To put a time on that, I just can't tell you for
13 sure -- three or six months ago. I can't tell you exactly.

14 Q. And when did you make a decision that you would
15 appear in support of this application?

16 A. Probably a month ago.

17 Q. I like to ask you some questions about your
18 Exhibit 12. I'm not sure I understand from what source you
19 prepared that. Do you have that in front of you?

20 A. Yes.

21 Q. Do you keep some sort of daily record book in the
22 ordinary course of business?

23 A. We have a computer printout every month of what
24 has come into the plant. And I do not have that with me.
25 That's where those figures were taken from.

1 Q. Does that computer printout show not only the
2 information on Exhibit 12 but also the name of the carrier
3 that transported the product?

4 A. Yes, it does.

5 Q. If my notes are correct, the only carriers which
6 you believed transported outbound -- the traffic shown on
7 Exhibit Number 12 would be Fleet Transport, Montgomery and
8 Matlack?

9 A. Right.

10 Q. Is it your testimony that Refiners Transport did
11 not participate in any of the outbound traffic shown on
12 Exhibit 12?

13 A. They have shown up several times to pick up the
14 loads because we scheduled them with Fleet's and run
15 Leaseway. Especially in Petrolia, either type of equipment
16 could have shown up to move it.

17 Q. So when you say Fleet Transport, you are
18 including --

19 A. Refiners.

20 Q. -- Refiners Transport?

21 A. Right.

22 Q. So there are four common carriers participating
23 in the traffic shown on Exhibit 12?

24 A. Yes.

25 Q. How do you determine which of those four carriers

1 will be tendered the traffic moving, for example, to points
2 such as West Elizabeth near Pittsburgh?

3 A. Our customer has requested a particular carrier
4 in that instance to West Elizabeth.

5 Q. Do you know which carrier was requested?

6 A. It's says Leaseway.

7 Q. Either Fleet or Refiners Transport moved all of
8 the loads to West Elizabeth?

9 A. Right.

10 Q. Was that at your customer's request?

11 A. Yes.

12 Q. Are there other destinations shown on Exhibit 12
13 at which you followed the designation of your customer as to
14 the carrier to be used?

15 A. Yes.

16 Q. Would you identify those, please?

17 A. I believe Carnegie is the only one. They don't
18 pick up with their own truck. They specify either Fleet or
19 Matlack as a second choice.

20 Q. So this Carnegie customer, which you say is
21 important to you, has specified Fleet as primary carrier?

22 A. Yes.

23 Q. Do you attempt to follow that designation?

24 A. Yes, we do.

25 Q. Would you continue to do that even if this

1 application were granted?

2 A. Yes, we would because the customer buys the
3 freight, and the material goes with his choice of carriers.

4 Q. So if Fleet is not available, you then tender
5 traffic to Matlack?

6 A. Right.

7 Q. How long has that customer designation at
8 Carnegie been enforced, sir?

9 A. Probably close to two years.

10 Q. Are there any other points shown on Exhibit 12 in
11 which your customer designates the primary carrier?

12 A. No.

13 Q. Would you turn to your Exhibit 13, sir, showing
14 inbound to Karns City. I'm not certain I understand how
15 many of those loads move by common carrier. I see the
16 designation for the movement from Rouseville which I
17 understand is primarily Refiners Transport?

18 A. Right.

19 Q. There is no other designation from any other
20 point. Am I correct much of the traffic from Petrolia,
21 Bradford, Emlenton, Pittsburgh, and Freeport moves by your
22 own company truck?

23 A. The majority -- I believe all the Bradford loads
24 either use Witco's own truck or possibly Crossett.

25 Q. All right, sir and from Petrolia?

1 A. We move the majority on our own truck.

2 Q. Your own trucks?

3 A. Right.

4 Q. When you say the majority, how are you using that
5 term, sir?

6 A. Like 90 to 95 percent?

7 A. So that 90 or 95 percent of the traffic from
8 Petrolia and Bradford moves either on your truck or your
9 supplier's truck?

10 A. Right.

11 Q. Do you propose to make any charge in that
12 movement even if this application is granted?

13 A. Probably not.

14 Q. All right. You go to Emlenton and tell us the
15 situation there? How is that transported?

16 A. Nearly all in our own trucks.

17 Q. You propose to continue that movement?

18 A. Yes, we do.

19 Q. Again, that's true regardless of what happens in
20 this application?

21 A. Yes.

22 Q. From Pittsburgh, sir, tell us what that product
23 is and who transports it.

24 A. That was a neutral oil like a base stock for
25 further refining, and Refiners hauled those 11 loads.

1 Q. Refiners Transport?

2 A. Right.

3 Q. And from Freeport, sir, how is that
4 transportation handled?

5 A. I believe all of that was our own trucks.

6 Q. Do you propose to continue that movement by your
7 own truck from Freeport, regardless of this application?

8 A. Yes. We have to keep your own people busy.

9 Q. I understand. Your aim is to keep your own
10 people and your own trucks busy?

11 A. Right.

12 Q. And, thereafter, if you can't provide the service
13 on an inbound move particularly, you turn to a common
14 carrier?

15 A. Right.

16 Q. Sir, would you turn briefly to your Exhibit
17 Number 14, and this involves the customers that designates
18 Fleet?

19 A. Right.

20 Q. You use the term scheduled and decline. What
21 does the word schedule mean?

22 A. They schedule floating time set up from like 7:30
23 in the morning and then that afternoon -- the previous
24 afternoon they told us they couldn't move. They didn't have
25 compartmented trucks.

1 Q. Would you explain that a little more. If today
2 is Wednesday --

3 A. Right.

4 Q. -- would you call carriers today for a movement
5 tomorrow to points in Pennsylvania, or do you schedule
6 further ahead?

7 A. It all depends what time our customer calls us.
8 They are many times they call us that day. There are other
9 times we have a week's lead time, others, a couple days'
10 lead time.

11 Q. What is with this customer Carnegie? Do you have
12 a couple days since this appears to be a repetitive move?

13 A. Normally, they do.

14 Q. So that today you might receive a call saying we
15 want a load on Friday?

16 A. Right.

17 Q. And what is your procedure then?

18 A. We would then call Fleet, schedule the load with
19 them.

20 Q. And you would say Fleet, you are scheduled for a
21 load at 7:30 on Friday morning?

22 A. Right.

23 Q. And what response do you get from Fleet? Where
24 you say a load was declined, do they tell you today that
25 they do not have a piece of equipment available for Friday?

1 A. They may if they don't see anything in the
2 future, anything coming in that would fit the load.
3 Otherwise, they tell you maybe the next day. They discover
4 they are not going to have the proper equipment to cover the
5 load, and then they tell us they can't cover it.

6 Q. So you write in this order book that you speak
7 about the word decline?

8 A. Yes.

9 Q. On which you based your Exhibit 14?

10 A. Yes.

11 Q. You are the person that makes those entries?

12 A. Not all the time, no.

13 Q. Who makes the entries?

14 A. Alan Dodd that works in my office and Nancy
15 Delin.

16 Q. And then either you or your people call Matlack
17 and ask them to cover the load?

18 A. Right.

19 Q. I believe Mr. Patterson already asked you,
20 apparently you do not have with you the underlying documents
21 upon which you based Exhibit 14?

22 A. No, I do not.

23 MR. WICK: May I have just one moment? I think
24 that's all I have at this time, Your Honor.

25 JUDGE SCHNIERLE: Mr. Graf?

1 BY MR. GRAF:

2 Q. If you look at the first page of Exhibit 11 where
3 you refer to the interstate traffic of the Applicant as 484
4 loads, would you agree with me that over 40 percent of that
5 traffic went to the States of Illinois and Ohio?

6 A. I didn't figure them out, but probably so.

7 Q. And would you look at Exhibit 12 for a moment.
8 Is it a correct statement that some 88 percent of the points
9 you name in the shipments listed there went to points in
10 Western Pennsylvania?

11 A. Yes. The majority of them do, true.

12 MR. GRAF: Thank you. That's all I have.

13 BY MR. MALIN:

14 Q. My name is Ronald Malin. I represent Crossett.
15 You mentioned Crossett once. Have you used Crossett for
16 hauling petroleum products?

17 A. Not really. I mean there has been occasions they
18 have been coming out of Bradford into our facility.

19 Q. That would be your election or the election of
20 the supplier of Bradford that Crossett used?

21 A. We normally let it up to the supplier. If they
22 can haul it in -- if they can't, we suggest a carrier.

23 Q. In the last year, can you say whether or not you
24 used Crossett at all?

25 A. I would say yes, but, you know, minimum. Maybe 5

1 or 10 loads, something like that.

2 Q. That would be inbound to Karns City?

3 A. Right.

4 Q. You have no problem with Crossett's service in
5 your testimony?

6 A. No.

7 Q. Have you ever contacted Crossett for any outbound
8 movement out of Karns City?

9 A. No. Crossett has never volunteered any service
10 to me, either.

11 Q. You never asked them, though? They never
12 offered. You never asked them. Is that a fair statement?

13 A. True.

14 Q. Do you know of their existence in Western
15 Pennsylvania hauling petroleum?

16 A. I don't know the hauling of the white mineral
17 oils or the petrolatums, the finished products that we ship.

18 Q. If Crossett hauls petrolatums for others, would
19 you have any objection in trying that service?

20 A. I would have no objection.

21 MR. MALIN: I have nothing further. Thank you.

22 MR. O'KANE: I have no questions of this witness.

23 JUDGE SCHNIERLE: Mr. Chesnutt?

24 MR. CHESNUTT: I have no redirect. I offer Exhibits
25 11 through 14.

1 JUDGE SCHNIERLE: Is there any objection?

2 MR. PATTERSON: I object to Exhibit 14 in view of the
3 failure of the witness to bring the underlying documents and
4 the failure, since this is an Applicant bearing the burden
5 of proof, for the witness to have even been asked to bring
6 it.

7 I think we deserve when we get criticism even if it
8 is light, criticism as in Exhibit 14 tends to be, that we
9 are entitled to see the source document. And it's one thing
10 if a public witness such as Mr. Frye doesn't bring them.
11 It's quite another if he chooses not to bring them. It's
12 quite another when it doesn't arrive and he has not even
13 been asked to bring it. So I would ask that Exhibit 14 not
14 be admitted.

15 MR. WICK: I would join in that, Your Honor. The
16 evidence shows that Mr. Frye knew of this application at
17 least three months ago; decided one month ago he would
18 support the application. He has testified he, himself,
19 makes certain entries in this book or whatever the record
20 is. And we have had no opportunity to examine and cross
21 examine Mr. Frye concerning this document.

22 JUDGE SCHNIERLE: Mr. Chesnutt, do you wish to
23 respond to those objections?

24 MR. CHESNUTT: My response to it is there's
25 sufficient information given in Exhibit Number 14 to allow

1 the protestant carriers to check their records. Not only do
2 they have sufficient information, but they also have
3 sufficient time with that to do so. And to the extent that
4 they wish to rebut what is shown in Exhibit 14, they will be
5 given ample notice and opportunity to do so.

6 JUDGE SCHNIERLE: I'm going to agree with that. I
7 also believe that their objections go more to the weight of
8 the evidence shown by the exhibit than to its
9 admissibility. Therefore, I overrule the objection.
10 Exhibits 11 through 14 are admitted in evidence.

11 (Applicant's Exhibit Nos. 11 through 14 were
12 admitted in evidence.)

13 JUDGE SCHNIERLE: I have two questions I'd like to
14 ask the witness real quickly, just for identification
15 items. The two other carriers that you discussed or refer
16 to, Montgomery and Fleet, I'm not sure I got those straight
17 in my mind.

18 THE WITNESS: Montgomery Tank Lines.

19 JUDGE SCHNIERLE: Montgomery Tank Lines. Fleet
20 covers a couple of different carriers?

21 THE WITNESS: It's under the Leaseway umbrella, Fleet
22 Transport and Refiners Terminal Transportation.

23 JUDGE SCHNIERLE: Okay. Does anybody else wish to
24 ask questions as a result of those?

25 (No response.)

1 JUDGE SCHNIERLE: Fine. You are excused. Do you
2 have anything further today?

3 MR. CHESNUTT: We do not, Your Honor.

4 MR. WICK: I have to pass out the exhibits that we
5 marked as Refiners Exhibit Number 1.


6 JUDGE SCHNIERLE: All right. Fine.

7 MR. WICK: Your Honor, this is Refiners Transport
8 Exhibit Number 1, which was introduced during the testimony
9 of Mr. Fesperman. I believe you have already admitted the
10 exhibit.

11 JUDGE SCHNIERLE: Yes. And you are now providing us
12 with sufficient copies. All parties are being given a
13 copy. Thank you very much. If there is nothing further
14 today, I note that the next hearing is scheduled for, I
15 believe, November 9th in Philadelphia. And if there's
16 nothing further, this hearing will stand adjourned until
17 that time.

18 (Whereupon, at 12:15 p.m., the hearing recessed.)
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1 I hereby certify that the proceedings and evidence
2 are contained fully and accurately in the notes taken by me
3 during the hearing of the within cause, and that this is a
4 true and correct transcript of the same.

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